

APPEAL NO. 022233  
FILED OCTOBER 14, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 14, 2002. The hearing officer determined that the respondent's (claimant) compensable right lower extremity injury extends to include a "right hip and/or herniation at L5-S1."

The appellant (carrier) appealed, citing evidence that might lead to a conclusion that the claimant's compensable injury had resolved and that the claimant had sustained a new injury in (alleged date of injury) which was not compensable because it had not been timely reported. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant, a spot welder, testified that he sustained a compensable injury on \_\_\_\_\_, building a newspaper rack when he lifted and turned the item. The carrier accepted liability for a right lower leg contusion and right gluteal strain. It is undisputed that the claimant was prescribed physical therapy for two weeks (which he apparently quit after a few sessions) and returned to work. In dispute is whether the claimant's symptoms had resolved or whether the claimant continued to work in some pain. The claimant continued to work until (alleged date of injury), when the pain ("twinges") became considerably more severe. An MRI performed on January 30, 2002, indicated an "apparent herniation" at L5/S1. The issue revolved around whether the pain was a continuation (recurrence) of the compensable injury or a new injury. There was no evidence of an incident or event on or about (alleged date of injury).

Whether the claimant's current condition is a new injury or a continuation of the prior compensable injury presented a question of fact for the hearing officer to resolve. The hearing officer, in her capacity as the sole judge of the weight and credibility of the evidence, did so. The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **SERVICE LLOYDS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JOSEPH KELLY-GRAY, PRESIDENT  
6907 CAPITOL OF TEXAS HIGHWAY NORTH  
AUSTIN, TEXAS 78755.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Elaine M. Chaney  
Appeals Judge